HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.10538 of 1999

Dated 30th Day of April, 2007

Between:

Danthuluri Sudharani .. Petitioner

And

The Collector, Visakhapatnam
and two others .. Respondents

O R D E R:

This writ petition is filed seeking a mandamus to declare the action of the 3rd respondent in asking the petitioner to vacate the land of an extent of Ac.1.75 cents in S.No.276/4 and old S.No.263/1 and an extent of Ac.1.05 cents of land adjoining Ac.1.75 cents without following due process of law, as arbitrary and illegal.

The petitioner asserts that she is in possession and enjoyment of the Government land of a total extent of Ac.2.80 cents in S.No.276/4 and Old S.No.263/1 situated in Chodapalli Village, Atchutapuram Mandal, Visakhapatnam District and paying cist to the Government regularly since a long time. The petitioner submitted a representation to the 1st respondent for grant of "D" Form patta and the matter is pending. Now, the petitioner's grievance is that the 3rd respondent issued a notice dated 4.11.1998 calling for her explanation as to why she should not be evicted from the land and she offered her explanation on 18.11.1998. Further, on 30.4.1999, the revenue officials, in the office of the 3rd respondent, asked the petitioner to remove the cashewnut trees in the land in question on the ground that the land was going to be assigned to the landless poor persons.

A detailed counter affidavit is filed wherein it is stated that the notice was issued under Section 7 of the Land Encroachment Act (for short "the Act"). After considering the explanation offered by the petitioner, orders dated 31.3.1999 were passed under Section 6 of the Act and the petitioner received the order on 2.4.1999. In the

interregnum, she filed the present writ petition and obtained interim stay of dispossession. Having regard to the fact that her application was rejected, the relief sought for in this writ petition cannot be granted. The petitioner has an alternative remedy of appeal before the competent authority.

In the light of the facts and circumstances of the case, this Court sees no merits in this writ petition and accordingly, the same is dismissed with liberty to the petitioner to approach the appellate authority and file an appeal as per the provisions of the Act. Having regard to the fact that the respondents were directed not to evict the petitioner from the land in question, this interim direction shall continue during the pendency of the appeal. If the petitioner so chooses to file an appeal, she shall do it within a period of six weeks from the date of receipt of a copy of this order. No costs.

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30.04.2007

bcj